

REMARKS

This Amendment and Response is in reply to the Examiner's Letter dated 25 June 2004. Applicants note the Examiner's rejections of claims under 35 U.S.C. §112. Applicants have amended the claims to clarify the claims in this regard. The Amendment does not change the intended scope of the claims and should not be used as a tool to limit the scope of the claims.

The Examiner has rejected claims 201-204 under 35 U.S.C. §102 over Miller et al., U.S. Patent No. 4,759,782. The Examiner takes the position that Miller et al. teach fine fiber comprising nylon or a nylon blend with the appropriate diameters. Since the reference does not suggest the amended claims, Applicants respectfully traverse the rejection.

The claims recite the combination of a nylon polymer or polymers and either a cross-linking agent or a hydrophobic additive or mixtures of such combinations. The Miller et al. reference does not suggest such combinations. In anticipation, the fiber is anticipated only if the disclosure in the reference places the entirety of each aspect of the fiber composition in possession of the public. *See In re Brown*, 329 F.2d at 1011, 141 U.S.P.Q. at 249. The reference must:

"clearly and unequivocally disclose the claimed compound or direct those skilled in the art to the compound without any need for picking, choosing, and combining various disclosures" *In re Arkley*, 455 F.2d 586, 587, 172 U.S.P.Q. 524, 526 (C.C.P.A. 1972).

The reference in its entire disclosure must therefore provide a clear and unequivocal precision with respect to the specific compound or structure claimed. Again, Miller et al. is a generic reference that has little specific disclosure of the acrylic materials in fiber. The reference has insufficient information to anticipate the amended claims.

The claims recite a fine fiber comprising a blend of a hydrophobic additive and a nylon or nylon blend. Miller et al. do not suggest such a blend. Further, Miller et al. do not teach the specific materials in claim 201, part (b), or the combination of claim 201, part (a) and claimed 201, part (b) in a fine fiber composition. Miller et al. do not teach the specific blend of nylons or give a reason for selecting the nylon resins in the blend. Miller et al. is a very general reference and do not teach the nylon and additive with any specificity. Nor is there any specific teaching regarding the nylons to be combined in the nylon blends. A generic teaching of

blending is insufficient for anticipation unless the reference can be shown to teach combining the specific materials combined. The exemplary materials in Miller et al. are chopped glass fiber. This fiber is so different than the inventive fiber that Miller et al. appear to be non-enabling for non-glass materials. Not only does Miller et al. fail to anticipate the claims but the data of page 30 to page 51 show that the combination of polymer (e.g.) nylon and additive obtain an environmental stability not obtained in the nylon fiber in the absence of the hydrophobic additive. These data demonstrate the non-obvious nature of the claimed fiber.

The Examiner has rejected claims 207-211, 214 and 215 under 35 U.S.C. § 102(e) over Healey, U.S. Patent No. 6,554,881. The Examiner suggests the claims relate to fiber comprising an acrylic polymer. Since the reference does not suggest the claimed material, Applicants respectfully traverse.

The claims recite the combination of an acrylic polymer and either a crosslinking agent or a hydrophobic additive, a blend of two acrylic polymers plus a hydrophobic additive or mixtures of such combinations. The Healey reference does not suggest such combinations. In anticipation, the fiber is anticipated only if the disclosure in the reference places the entirety of each aspect of the fiber composition in possession of the public. *See In re Brown*, 329 F.2d at 1011, 141 U.S.P.Q. at 249. The reference must:

"clearly and unequivocally disclose the claimed compound or direct those skilled in the art to the compound without any need for picking, choosing, and combining various disclosures" *In re Arkley*, 455 F.2d 586, 587, 172 U.S.P.Q. 524, 526 (C.C.P.A. 1972).

The reference in its entire disclosure must therefore provide clear and unequivocal precision with respect to the specific compound or structure claimed. Again, Healey is a generic reference that has little specific disclosure of the acrylic materials in fiber. Healey has insufficient information to anticipate the amended claims.

The Examiner has rejected claims 205, 206, 212 and 213 under 35 U.S.C. § 103 over Kahlbaugh et al., U.S. Patent No. 5,672,399 with Miller et al., U.S. Patent No. 4,759,782. Applicants respectfully traverse the rejection.

Since the rejected claims are dependent on allowable claim 201, claim 205, 206, 212 and 213 are allowable as written. However, more broadly, Healey and Kahlbaugh et al. are not combinable since they teach markedly different structures with different structures and different

properties. The materials of the Healey fiber layer are different than that shown in Kahlbaugh et al. and the performance of these filter structures would be different, such that one could not knowledgeably combine these references.

In paragraphs 12-17, the Examiner has rejected specific claims under the judicially created Doctrine of Obviousness Type Double Patenting over Gogins et al., U.S. Patent No. 6,716,274 and Chung et al., U.S. Patent No. 6,673,136. .

Enclosed with this response is a Terminal Disclaimer obviating the rejection over these issued patents. The Applicants assert that the enclosed Terminal Disclaimer overcomes the rejection.

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

4 Aug '04
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